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ABSTRACT

Parents and community members who want to improve their schools are often told that things "must" be done a certain way because of rules and regulations. Often union contracts are blamed for why certain changes cannot be made. Union contracts may not be the barrier to change, however; management inaction may be the real culprit. This guide is designed to help the reader understand how union contracts affect the day-to-day operation of schools, how union work rules protect the rights of employees, what types of rules are in union contracts and what are not, and how some of these rules can be changed if needed. The following 14 chapters make up this guide: (1) "Introduction"; (2) "Who Makes the Rules"; (3) "Labor Unions and Collective Bargaining"; (4) "Work Rules for Teachers: How They Impact the School"; (5) "Work Rules for Teachers: How They Impact Instruction"; (6) "Work Rules for School Administrators"; (7) "Work Rules for Custodians and Their Employees"; (8) "Work Rules for Aides and Paraprofessionals"; (9) "Other Issues"; (10) "Parent Associations and the Schools"; (11) "Bilingual/English as a Second Language (ESL) Education"; (12) "Special Education"; (13) "Conclusion and Listing of Sources of Assistance"; and (14) "Glossary of Terms." (RT)

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A GUIDE TO
WORK RULES
IN THE NEW YORK CITY
PUBLIC SCHOOLS

EDUCATIONAL PRIORITIES PANEL

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WORK RULES
IN THE NEW YORK CITY
PUBLIC SCHOOLS

EDUCATIONAL PRIORITIES PANEL

Judith A. Cartisano, JD, Author,
May, 1993

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Section 1

INTRODUCTION:

Schools should operate so that students receive the best possible education. The Educational Priorities Panel, a coalition of 26 parent and civic organizations in New York City, published this guide because we believe that what is best for children must be the focus of how schools are run. Parents and community members who want to improve their schools are often told that things "must" be done a certain way because of rules or regulations. Often union contracts are blamed for why certain changes can't be made. We hope this guide will help the reader understand how union contracts affect the day-to-day operation of schools, how union work rules protect the rights of employees, and how some of these rules can be changed if needed.

School Decision-Making

Efforts are underway in New York City and across the country to give parents, principals, and teachers more say in how their schools should be run so that they can develop a better educational environment for students. The hope is that these individuals will take leadership on a local level in designing new programs and new approaches and that they will take responsibility for how well children are educated through these new programs. Too often the focus of school administrators is on rules and regulations, rather than the reason why the rules and regulations were created in the first place—to promote good education.

The Needs of Children or the Needs of Adults?

The rules that are contained in school union contracts protect the interests of workers who belong to the unions. Sometimes they benefit children as well by making sure that the school working conditions and pay scales attract and reward talented, hard working, and caring teachers. In the New York City school system, which is underfunded, union contract agreements on working conditions have been critical in keeping class size from being larger and in making sure that there are basic school supplies in the classroom. Sometimes, however, the needs of adults displace the needs of children in a school

system whether the adults are on a school board, in the legislature, in a government agency, in administration, or in a union. You need to begin to look carefully at how your local school operates and to see where programs can be improved for the benefit of students. Often union contracts are not the barrier to change — management inaction may be the real culprit. This guide will help you understand what types of rules are in union contracts and what are not.

As you will learn later in this guide, schools have the ability to change rules in order to improve educational programs for children, but the changes must be jointly supported by the principal and teachers and in some cases parent associations. If you feel that some of the procedures in your school should be changed in order to improve educational programs, you first need to understand whether these procedures are, in fact, required by city, state, or union rules. Once you know which body creates which type of rules, you'll know whom to target for specific changes. Your next step is to join your local parent's association and begin to work cooperatively with the principal and the unions in your school to bring about the desired change.

This booklet is designed to answer many of your basic questions and to encourage you to ask more questions as you become more involved in your children's education. There's a glossary at the end that will help you understand many of the common terms you'll encounter. These terms are marked by asterisks (*) throughout the booklet. There's also a list of important names, addresses, and telephone numbers at the end, as well as information on how to obtain copies of the union contracts discussed in this guide.

Section 2

WHO MAKES THE RULES?

The New York City public school system is the largest in the nation, with a student enrollment of close to one million students. This system provides primary and secondary education to over one third of the state's children.

Many rules govern how almost 1,000 schools that are part of New York City's public education system operate. These rules determine when schools should be open, what subjects are taught, how many children are in a class, what tests are given, what forms have to be filled out, and even how many vegetables should be served at lunch. Who makes these rules?

Community School Boards. Nine member boards (elected in 32 districts throughout New York City) who develop policies for elementary and middle schools in their district and hire thier district superintendent.

New York City Board of Education. A seven-member board (two of whom are appointed by the Mayor and the rest by the five borough presidents) that develops policies and issues regulations for all public schools in the city and directly oversees high schools

Chancellor. Hired by the Board of Education to run the New York City school system and who can issue policies and regulations for all public schools in the city.

New York State Legislature. Writes and votes on legislation that becomes New York State education law and allocates state funds for public schools.

New York State Board of Regents. A sixteen-member board (appointed by the NYS legislature from 12 regions of the state) that develops policies and issues regulations for all public and private schools and universities in the state.

New York State Department of Education, headed by a Commissioner of Education (who is hired by the Board of Regents) to supervise the operation of all schools in the state and to develop education policies and regulations.

Federal Government. Federal agencies and the U.S. Congress develop rules and regulations for programs funded by the federal government and for some special areas of concern, such as civil rights, disabled students, and vocational education.

Labor Unions. Employees who work for the New York City public school system are organized to negotiate collective bargaining agreements with the Board of Education about work duties, working conditions, and wages.

With the exception of labor union contracts, all the other rule-making is open to the public. Proposed regulations and laws are pre-circulated and interested parties may attend the meetings or legislative sessions at which they are adopted. In contrast, collective bargaining sessions are not open to the public and often the major issues that are being negotiated are not known until the agreements are to be voted upon by the union membership. On the other hand, state law, agency regulations, and policies adopted by the Board of Education are meant to be long-lasting, while union contracts are negotiated every few years, and rules can be changed with every collective bargaining agreement.

Union rules sometimes have more impact on education programs than laws and regulations because they define the jobs that employees do in a school, their hours, and their working conditions. Some of these rules, such as maximum class size, have benefited children. Some other rules, such as teacher transfer procedures, have not benefited children. In the next chapter we will look at unions and union contracts generally and then move on to examine work rules that come about because of union contracts and other work rules that come from state laws or policies adopted by the New York City Board of Education or New York State Board of Regents.

Section 3

LABOR UNIONS AND COLLECTIVE BARGAINING

What is a Labor Union?

A labor union* is an association of workers recognized by law, who have joined together to protect their rights in the workplace and to influence their working conditions. Typically, the rights workers have and the wages they will receive are contained in a written agreement called a union contract. This contract is an agreement between management and labor that lasts for a certain period of time, often from one to three years. When the number of years ends, a new contract should be negotiated.

Collective Bargaining — Who's at the Table?

The process of negotiation that results in a union contract is called collective bargaining*. The basic categories of people involved in collective bargaining are management and labor. The process is a bit more complicated for employees of New York City, however. Because the mayor is the chief executive officer for New York City, he or she is ultimately responsible for all collective bargaining agreements involving city workers. But it's rare for the mayor to become actively involved in the process other than to agree on wage increases. Instead, the city's Office of Labor Relations (OLR) negotiates directly with the unions on behalf of the mayor.

The collective bargaining process for Board of Education employees is very different because under state law the Board of Education is the employer. When any school union contract is being negotiated, the chancellor and the central school board are involved. The mayor is not a direct party to the negotiations, but because the city must provide the funding for wage increases, he/she has a key role in approving the contract. Thus, the mayor's office will concern itself primarily with portions of the contracts that have fiscal implications, that is, with how much everything will cost the city. The mayor's office will most probably not become involved with provisions that won't cost or save the city money.

Wages are the most obvious financial cost, but there are other, less obvious costs. For example, if the teachers' contract were to provide for additional preparation periods for teachers, thus taking teachers away from actual teaching time, the city would have to hire additional teachers to make up for the lost teaching time at extra cost to the city. The city and/or the Board of Education may seek "productivity" improvements from employees that will save money, such as reducing teacher preparation periods or increasing class size.

By law, the chancellor is the chief negotiator for the Board of Education. The chancellor, however, may or may not participate directly in contract negotiations. He or she may limit participation to areas of particular concern, for example, to special programs such as educational reform. The chancellor may delegate others to represent him or her at the bargaining table. The chancellor may also be represented by an outside counsel called a Special Counsel for Labor Negotiations. Of course, each union sends its own representatives to the bargaining table to negotiate on behalf of its members.

Parents and members of the community school boards and the central board do not participate directly in contract negotiations. By law, however, the chancellor is required to consult with the community school boards regarding contract negotiations.

The organization representing the community school boards is called the Community Board Council on Collective Negotiations (CBCCN). One member from each of the 32 school boards sits on the council. The council has formed four committees, each of which concentrates on particular union contracts: UFT contracts; the CSA contract; the custodians' and maintenance workers' contracts; and all other remaining unions such as District Council 37. Similar committees have been formed by the New York City Board of Education.

These committees meet periodically with the chancellor. In addition, the Board of Education's negotiators meet at least once per month with CBCCN and communicate with CBCCN by mail as needed during negotiation periods. The number of meetings may increase as contract negotiations intensify.

The chancellor consults with other parties, among them the high school and community superintendents. The chancellor is not legally required to consult with parents, nor do parents sit at the bargaining table. What can parents do to influence contracts?

To insure that their point of view is conveyed to the chancellor, parents may express their opinions directly to the community school boards. Since the members of these community school boards are elected, parents may express their displeasure by not reelecting unresponsive CSB members. Parents might also consider running for Community School Board positions themselves.

In addition, the chancellor's staff meets periodically with a group of parents' organizations through the chancellor's Office of Parent Involvement. Parents can gain input here by participating in parent organizations. Since both the community school board and the central board have separate committees which concentrate on different unions, parents' organizations might consider forming similar committees in order to focus their efforts and increase their effectiveness and expertise.

Neither the New York City Council nor the New York State Legislature has to approve collective bargaining agreements. Nevertheless, since contracts have financial impact, the New York City Council may have an indirect effect on union contracts through the budget process. For example, budgetary constraints may determine the size of pay increases. In addition, programs may be outlined in union contracts, but they may not be funded if there is no money to put them into operation.

The New York State Legislature could have an effect on union contracts by making changes in the New York State education law. The law could set certain legal requirements beyond which the contract might not go.

Topics for Collective Bargaining

There are any number of topics that could be included in a collective bargaining agreement. These include salary ranges, job descriptions, seniority, wages and hours, benifits, grievances, and disciplinary procedures, some of which are also covered by state law. Certain topics are common to almost all union contracts; others, such as class size are unique to contracts such as the teachers' contract. Let's take a brief look at some of the topics now. Other topics will be covered as we look at each individual contract.

Wages and Hours

Wage and hour provisions are pretty much the heart of a union contract. These provisions spell out how many hours an employee must work to earn a certain income. They also spell out how much an employee will be entitled to receive if she or he works works overtime, that is, more hours than the standard work week. Many union contracts contain a salary schedule. The schedule* is usually divided into steps for teachers and supervisors. As an employee spends more years on the job, gains more experience, or completes higher educational requirements, she or he will move from step to step, increasing her or his income along the way. For those employees who work for long periods of time for the same employer, say ten or twenty years, there are often pay increases called longevity increases, which increase the employee's salary above the schedule of steps.

Work Responsibilities

Job descriptions that spell out exactly what each employee is required to do are formulated by management, not by unions. On the other hand, a union contract may state what tasks employees in different job titles cannot be asked to do. For example, although there are no job descriptions in the teachers' contract, there are a number of provisions that spell out specific tasks teachers may not be required to do, such as an inventory of books and supplies for a whole school.

By contrast, the custodians' contract is a type of contract referred to as a "requirements" contract. A requirements contract spells out in detail exactly what workers are required to do, for example, the number of times per year custodians must wash school windows. To summarize, although union contracts don't contain job descriptions, they do contain prohibitions or requirements that may strongly influence what work employees actually will do.

Seniority

Seniority* is another key feature in many union contracts. Usually seniority is within a job title. Seniority provisions allow long-term employees to retain their jobs during periods of budget cuts, layoffs, or other employee cutbacks, over newer employees who have fewer years on the job. Seniority provisions also determine who will have the first opportunity to apply for job openings. More often than not, the employee with greatest seniority has the strongest chance to obtain the job. There are various types of seniority within the city school system. These include school seniority and district seniority, as well as city-wide seniority. We'll take a closer look at seniority when we discuss the teachers' contract.

Seniority is a very important principle for all unions. It provides an objective procedure for salary increases, assignments, retention, and lay offs. Non-unionized businesses, in order to save money, will often cut their more experienced, higher salaried employees first. Through seniority provisions, unions tend to protect more experienced, higher paid, and, more often than not, older workers.

Grievance Procedures

Grievance provisions set forth the means by which employees can file complaints alleging violations of the contract. He or she may allege that because the contract has been violated, he or she has been treated unfairly or suffered some form of discrimination. Usually the procedure involves a written complaint, followed by several hearings. If no satisfactory result is reached, the complaint may go to arbitration for a final decision. Since grievances are internal methods for handling disputes based on an interpretation of the contract itself, and involve only employees and employers, we won't examine the grievance process in this report. No person other than the parties involved may participate in the grievance.

Layoffs, Excessing and Attrition

These three terms relate to procedures in school contracts and state law that may be followed when employee numbers are reduced, usually for budgetary reasons. Layoffs are most often permanent, but are sometimes temporary interruptions in employment. Layoffs are based on seniority, with the most recently hired employees in a particular title the first to be laid off. Often, as with teachers, employees who are subject to layoffs may have an opportunity to be recalled to work as new positions in their job title become available, again, based on seniority. Layoff procedures are in state law.

Excessing is a term that appears in school contracts. It refers to a situation in which budget cuts or program changes require the reduction or elimination of certain positions. Excessing differs from layoffs in that while layoffs often result in permanent job loss, excessing results in the transfer of an employee from one position to another. Excessing provisions are somewhat complicated. We'll take a closer look at them when we look at individual contracts.

Attrition refers to positions vacated by employee resignation, retirement, or death. When budgets are tight, employers may attempt to reduce costs by not hiring replacement employees for these vacated positions.

Unions in the School

There are nine major unions representing city school system employees. We'll take a look at some of the important contracts and their provisions as we look at each major group of workers. The unions include:

United Federation of Teachers (UFT)
Local 2 of the American Federation of Teachers (AFT), which represents through separate collective bargaining agreements the following employees:

— teachers; teachers assigned to central or district duties; Level 1 educational administrators; education officers and education analysts; per diem substitute teachers; adult education teachers; per session teachers
— attendance teachers
— school secretaries
— laboratory specialists and technicians
— school social workers and school psychologists
— guidance counselors
— teacher aides, educational assistants, educational associates auxiliary trainers, and bilingual professional assistants

Council of Supervisors and Administrators (CSA)
Local 1 of the American Federation of School Administrators (AFSA), which represents through a single collective bargaining agreement the following employees:

— principals
— assistant principals
— educational administrators in central and district offices and administrative directors in district offices and schools
— special education supervisors; psychiatrists; chairpersons of sub-committees on special education.

International Union of Operating Engineers (IUOE)

— Local 891 represents school custodians who work for the central office of Board of Education
— Local 94 represents heating system operators and engineers who work for the custodians

Service Employees International Union (SEIU)

— Local 74 which represents school cleaners who work for custodians
— Local 300, which represents buyers and purchasers

American Federation of State, County and Municipal Employees (AFSCME)

District 37 (DC 37), which represents a wide variety of non-professional workers in schools:

— Local 372 which represents 20,648 members most of whom are school aides; school lunch room workers; family workers and parent program assistants; school neighborhood workers and community workers; and substance abuse and intervention workers (SAPIS)
— Local 299, which represents recreation employees
— Local 375, which represents engineers, architects, and other technical employees, many of whom are employed by the School Construction Authority
— Local 1251, which represents clerical workers
— Local 1407, which represents accountants
— Local 2627, which represents data processing workers
— Local 983, which represents the drivers of food delivery trucks
— Local 1087, which represents workers called "prevailing rate" employees such as locksmiths and pest control workers
— Local 1062, which represents workers who are supervisors of automotive plant equipment
— Locals 436 and 768, which represent respectively, public health nurses and New York City health employees
— Local 924, which represents laborers
— Locals 1157 and 1219, which represent public works supervisors and real estate employees
— Local 154, which represents miscellaneous employees

International Brotherhood of Teamsters (IBT)

— Local 237, which represents school guards and stockpersons
— Local 832, which represents school lunch managers and supervisors of school lunches.

Communications Workers of America (CWA)

Local 1180, which represents administrative workers and district business officers (DBOs)

International Alliance of Theatre and Stage Employees (IATSE)

Local 306, which represents audio-visual aides.

Organization of Staff Analysts

An independent union that represents staff analysts at the central board and the community school district levels.

Section 4

WORK RULES FOR TEACHERS: HOW THEY IMPACT THE SCHOOL

The teachers' union or UFT, represents about 83,000 workers, of whom nearly 66,000 are teachers. Of all the contracts affecting the schools, the teachers' contract is probably the one most important to you as a parent. But this contract is long and involved. How can you understand how the contract affects your child and the school she/he attends? You can learn more about how the contract works by joining your local parent association/ parent-teacher association. Let's look at some of the common questions asked about the teachers' contract. Some of the work rules for teachers are based on state education law and are mentioned in the UFT contract. Others work rules in the contract are not based on law, but have come about because of collective bargaining.

What Is in the Teachers' Contract?

The teachers' contract doesn't tell you what subjects will be taught or what program will be followed in your child's school. Subjects and programs are generally required by the New York State Board of Regents, the New York City Board of Education and/or the chancellor or the local community school boards, or determined by the school principal. Principals are supposed to meet with teachers each spring before the next school year to explain the proposed program. Teachers may make requests for assignment before or at this meeting. In late spring, the principal is required to publish assignments, so budget constraints often change these assignments. In addition, in the summer before school begins, principals are supposed to tell teachers about any changes in the classes they will be teaching in the fall. However, because the state and city are often late in deciding on the budget for the schools, teachers often don't find out what they will be teaching until the school year begins.

10. Chapter 1 junior high industrial arts/technology classes—22 pupils per teacher maximum

11. junior high schools industrial arts/technology classes—24 pupils per teacher maximum

Despite these limits, the contract also provides for exceptions which allow class size to be increased. Class size may be increased if the school lacks space; if conformity to the limits would result in shortened classes or in half-classes; or if the size is necessary or desirable for experimental or specialized instruction. In addition, the teachers' contract contains certain provisions for experimental programs such as SBM/SDM and School Based Options (SBO), which allow schools to change class size limits set in the teachers' contract. Although parents have some input on SBM/SDM decisions via the SBM/SDM teams, they have no say on class size changes based on SBO requests.

While the UFT contract sets maximum class sizes, most class sizes are smaller than the limitations and some are larger because of a factor called "breakage," that is, how you divide pupils into classes. The rule in the teachers' contract is that class sizes can exceed the maximum in order to avoid having what would be less than half the maximum class size. Here is an example that will make "breakage" more understandable: Let's say there are 82 students who are scheduled to take ninth grade English. The class size maximum for this official high school subject is 34 pupils. They could be divided into two classes of 27 students and one class with 28. However, they could also be divided into only two classes, because the first two classes could contain up to 34 pupils leaving the third class size with just 14 students, less than half of 34. It would thus be permissible to have two classes of ninth grade English with 41 students each. Limited space available for more classes in a school is another reason stated in the teachers' contract that some classes may exceed their maximum size. The budget for the school system also plays an important role in how class sizes are set by breakage factor.

Cuts in state and city funds can mean an increase in average class size. On the other hand, the state and the city can also provide funding so that the breakage factor in class size is not used, and the maximum in the teachers contract becomes a "cap." For example, the City Council and the Mayor for several years directed money to be used in combination with state funds to reduce class size in the first,

second, and third grades. The result was that no class could be above 28 pupils, and the average class size for the early elementary grades was 25 pupils.

What about Books and Supplies for My Child?

There is a section of the teachers' contract designed to prevent superintendents from short-changing schools. Too often in the past New York City teachers have been forced to buy basic supplies, like chalk and paper, out of their own money. Article 7R simply creates a procedure for presenting complaints about outdated books and for other matters involving supplies.

If a teacher believes that basic supplies aren't being provided to students or to teachers, he or she may approach the local chapter of the teachers' union. The chapter will then set up a meeting to discuss the problem with the principal. If the principal and chapter can't agree, a district representative of the teachers' union may meet with the district superintendent to discuss the issue. If there is still no solution after that, the dispute may be taken to the chancellor for a decision.

Teachers Choice, which is not part of the union contract, is a program jointly developed by the New York City Board of Education and the United Federation of Teachers, whereby individual teachers may directly order classroom supplies. In some schools teachers have pooled their requests so that the money available through the Teachers' Choice program can be used to purchase school-wide supplies. Budget cuts may lower the Teachers' Choice amounts in any given year.

This program does not include textbooks. Textbooks are paid for with state funds. These funds are now inadequate, so many schools are unable to provide a full set of textbooks for each child. This makes a teacher's job very difficult. She or he must often photocopy materials in order to provide them to each child. This may also mean that a school or teacher will not allow students to take home their school books.

What is School-Based Management?

Article 8 of the teachers' contract is called "Education Reform." It includes the rules for two new programs—SBM/SDM and SBO's. We'll look first at SBM/SDM, which stands for School-Based Management/Shared-Decision Making.

The SBM/SDM concept is an important part of an overall program for improving the city's schools. Ideally, SBM/SDM works by bringing together all the parties concerned with the education of children, including parents, to develop programs to improve the performance of the school. The teachers' contract calls for the formation of a SBM/SDM team at each participating school. The majority of the members of each team, by the terms of the teachers' contract, must be teachers or other non-supervisory pedagogues. Along with the principal, the chapter leader of the teachers' union at each school is automatically a member of the team.

Participation in SBM/SDM is voluntary. Each school must decide on its own to apply for SBM/SDM status. There are currently about 250 schools participating in the program. The application must be approved by 75% of the teachers' union's members at each school. There is no written requirement in the union contract for parental involvement at this stage, but the Chancellor's regulations (Circulars 41,43,13 &14) require approval by the parents' association and require parents' participation on teams, but don't specify how many. Despite certain drawbacks, SBM/SDM, by including parents on the SBM/SDM teams, points the way toward greater parental involvement in the school system, with greater parental input in decision making for the schools.

How Does the School-Based Option Plan Differ from SBM/SDM?

SBO stands for School-Based Options. While SBM/SDM changes how schools are run, SBO allows only school employees to change certain provisions of the teachers' contract with the approval of the district superintendent, the Chancellor, and the U.F.T. president. Article 8 allows schools through SBOs to change the provisions of the teachers' contract in four areas: class size, rotation of teacher assignments or classes, teacher schedules, and/or rotation of paid coverage for the entire school year. Thus, even though the teachers' contract may limit class size to, for example, thirty-three pupils per teacher in junior high schools, the principal and 75% of the voting members of the teachers' union in a school may vote to change class size by making class size smaller or larger. This provision, combined with the provision for exceptions to class size in article 7 of the teachers' contract, gives teachers and schools a great deal of leeway to change class size.

A proposal to change the contract under SBO must be submitted by May 1 to be effective that following September. The contract also provides for what's called an "automatic sunset" provision. This means that any change made by the school under SBO must automatically end after one school year. If the school wishes to continue the change for a

second year, another proposal must be submitted and another vote taken. The wording under SBO contains no provision for participation by parents. Although the teachers' union may "urge" its members to consult, at the very least, with the PTA or PA presidents, there is no guarantee that this will occur, and no penalty for any school that doesn't consult with parents.

Section 5

WORK RULES FOR TEACHERS: HOW THEY IMPACT INSTRUCTION

How Are Teachers Salaries Determined?

Salary levels are important because they determine how many people will be attracted to and remain in the teaching profession. Since the New York City fiscal crisis of 1975-77, salaries for teachers have remained low or relative to teachers' salaries in many surrounding suburban school districts. The basic starting salary for a new teacher is $26,375 per year. Under the 1990-91 teachers' contract, experienced teachers' salaries can go as high as $52,750 per year. Teacher salaries depend to a great extent on the state of the city's finances as well as the ability of the teachers' union to negotiate wage increases for its members. Salary increases for a contract year are expressed in terms of percentage increases over employee salaries for the previous year. Salaries are displayed in the U.F.T. contract in a chart called a salary schedule. The schedule is divided into steps which increase with the teachers' number of years of experience. In addition, there are extra salary increases called above-step or longevity increases* for employees who have worked for the schools for a long time. Within each step there are salary differentials based on education.

How Do Seniority Provisions Affect Teachers?

We examined seniority briefly in the section on collective bargaining issues. Seniority is important, in part, because it establishes a process for salary increases as well as for layoffs and excessing. In addition, seniority provisions often protect older, more experienced workers, that is, just those employees who are often the victims of age discrimination.

There are a variety of seniority provisions for teachers generally governed by state law. For purposes of layoffs and excessing, seniority is by tenure* in a license area. Seniority for excessing and layoff purposes is determined by length of service in the school system within the teacher's current license, and thus is citywide seniority. For purposes of calculating years of service, a teacher may add years spent teaching in a previous license as well as years spent working as a

teacher's aide, educational assistant or other paraprofessional* represented by the teachers' union onto the years spent teaching in her or his current license. For example, if an employee began working for the schools as a paraprofessional, then later obtained a teaching license in math, and still later changed her or his teaching license area to science, all the previous years she or he spent working within the school system would be added together to determine seniority once he or she had obtained tenure in science.

Seniority for purposes of assignments in a school is different. In this case seniority is determined by length of service in that particular school. For purposes of transfer, seniority is within license. A teacher must complete a minimum of five years of service in a particular school, within license, before being eligible for transfer.

Also, before 1987, a non-salary incentive was given to teachers in order to induce them to teach in schools serving low income communities. This incentive, called double seniority, allowed teachers to accumulate special seniority credit for the time spent teaching in Chapter 1* schools. Double seniority was not credited toward teacher salaries or pensions, but only toward the ability to transfer from the school or the district once the teacher became eligible to transfer after five years of service. The result of this policy was that schools serving low income communities experienced high teacher turnover rates. This double seniority benefit was eliminated in 1987, but teachers who worked in Chapter 1 schools prior to this change still have this added seniority for the period of time before 1987.

Impact of Attrition

Attrition refers to the natural process through which the number of teaching positions are reduced due to death, retirement, or resignation. The decision to replace workers lost through attrition often depends upon the state of the city's budget. If the city and/or the Board of Education wants to save money, a decision may be made not to hire replacements for teachers lost through attrition. The attrition process was speeded up in 1991 when the city encouraged many highly qualified, long-term teachers to retire early in order to avoid having to lay-off many more teachers. If and when these teachers are replaced, it will be with less experienced, lower-paid teachers. Sometimes failure to replace workers can lead to serious understaffing problems. This means that there will be too few workers left to do too much work. The failure to replace teachers, for instance, will have an impact on children, because fewer teachers will lead to an increase in class size.

Attrition decisions are not controlled by the teachers' contract. The contract only provides rules, such as class sizes. Decisions regarding hiring are also made by the Board of Education.

Impact of Excessing

Excessing rules in the teachers' contract explain who may be displaced or bumped when teacher positions are cut due to budget reductions or program changes. The rules in Article 17 are very complicated. The process itself, however, begins with budget decisions. When the school budget has been cut, it's up to the various community district superintendents and the high school superintendents to apply the cuts to the schools within their districts.

Let's look at an example. The superintendent may tell a school principal that she or he must eliminate two teaching positions. The principal must then examine all the teaching positions at the school and decide which ones to cut. The principal must look at not only what a teacher is actually teaching at the school, but also at what a teacher is licensed to teach. Teachers are often teaching out-of-license. For example, a teacher may be assigned to teach a computer class, but be licensed to teach math. If the principal decides to cut the computer class, she or he will really be cutting a math teacher. That teacher may, if she or he has seniority over others at the school or within the district in that license area, "bump" or displace another math teacher within the school or districts. The least senior person in this process may be excessed out of the school and the school district, although it's possible that she or he may be retained to work out-of-license.

The concern parents have about this process is that when sizeable budget cuts occur, as they did during the 1975-77 New York City fiscal crisis, and the Board of Education decides to reduce classroom services, there can be a constant turnover of teachers in a school and a classroom. During this period, there were reports that some classes had as many as six different teachers during the course of one year. Because the Board of Education's personnel records are now computerized, "bumping" need not be as chaotic as it was during the 1975-77 fiscal crisis, but the complex seniority provisions still make excessing a game of musical chairs where the cancellation of a computer class can lead to the excessing of the least senior math teacher.

What about Teacher Qualifications?

There are no guarantees, of course, that everyone hired to teach will actually be a good teacher. There are certain procedures that must be followed, however, both before and after a person is hired to teach, that may filter out some unqualified candidates. These are not part of the union contract, but are in state law. Besides having a B.A. degree, teachers must be licensed by the state and the city. To obtain a license* they must pass state and city exams and they must obtain a masters degree in five years. They are also subject to employment background and fingerprint checks.

Let's look more closely at teacher licensing and certification. In order to teach anywhere within New York State, teachers must have received a certification to teach from New York State. Certification is by subject area and is based upon the successful completion of an approved bachelors program at an approved college or university and passage of state exams in one or more general reading areas.

Teachers in New York City schools must also obtain a license to teach from New York City. After applying for a license, applicants must take an interview test. This test focuses on the skills, activities, and knowledge a person must have in order to be hired as an entry-level teacher. For example, the interview test examines a candidate's interpersonal skills, knowledge of safety procedures, and ability to recognize and deal with problems such as child abuse and children with special needs.

After a candidate has received a New York City license, her or his name is placed on an unranked list of candidates for probationary appointments made available to districts and schools by random selection. Licensure is by both subject and school level, for example, intermediate or high school math. Elementary teachers have only two license areas, common branch and early childhood. All teachers can also acquire additional licenses in special education and bilingual education.

Credentials for substitute teachers in New York City who do not have licenses are issued on an emergency basis for periods of up to one year. For substitute teachers, New York City credentials are referred to as certificates to teach. These one-year certificates are renewable for up to three years.

New Teachers May Not Have Licenses

Many of the credentials for teachers who have been newly hired are temporary. There are state education department regulations for two categories of provisional teachers, that is, teachers who are not fully licensed. They are Certified Provisional Teachers (CPTs)* and Preparatory Provisional Teachers (PPTs).* CPTs are those who have not yet been appointed to regular teaching positions, but who hold either a New York State provisional or permanent certificate or a New York City regular license or a substitute license which was issued on or before June 30, 1969.

PPTs are those who haven't yet completed all the requirements for New York state provisional certification, but who hold a temporary New York state license. PPTs must complete the requirements for state provisional certification within three years.

Regularly licensed teachers are appointed to all available positions first on a random basis within their license area. The school has the option of rejecting the first two teachers assigned to them, but must accept the third teacher. This is called "the rule of three." If there are any openings after the list of all licensed teachers has been exhausted, that positions are filled first by CPTs and then by PPTs. Although licenses and exam scores demonstrate on paper that teachers are qualified to teach, they do not guarantee that teachers will be able to communicate well with students or be able to control the classroom environment. Fully licensed teachers may be granted tenure* after the completion of a probationary or trial period. Tenure is very important, because once it's granted it becomes very difficult to remove a teacher from the job. There are very few reasons for teacher removal. We'll discuss these reasons when we look at the process for removing teachers.

How Are New Teachers Rated?

Probation normally lasts three years by state law. During that time the school principal rates a teacher's performance once per year. A teacher may be given one of three ratings—Satisfactory (S), Unsatisfactory (U), or, during the first year of probation only, Doubtful (D). If a probationary teacher receives a D or U rating, she or he may appeal it. At the end of the school year, a principal may recommend that a probationary teacher either be terminated or allowed to remain on the job. If the principal recommends termination, the teacher is entitled to a hearing before the Board of Education's Office of Appeals and Review. If the Board agrees with the principal, the teacher may no longer teach in the district in his or her license area. Article 8 of the 1990

teachers' contract provides for a one-year study of the current teacher evaluation process. The study is in progress, and may lead to changes in the way teachers are evaluated.

Are Tenured Teachers Rated?

Yes. The procedures are based on the Board of Education's bylaws, not the union contract. Teachers who are tenured are rated annually by the principal of the school in which they teach. Teachers may receive a satisfactory (S) or an unsatisfactory (U) rating.

If a teacher is eligible for a salary increment step but receives a U rating, he or she will be prevented from moving to the next highest step, and thus will receive no pay increase. As you can see, there is an economic penalty for receiving a U rating.

If, however, a teacher who has already advanced to the highest salary step receives a U rating, there is no monetary penalty involved. For teachers in this category, a U rating usually accompanies other charges against the teacher and may be used as a basis for bringing an action against the teacher. For example, the U rating may be used in bringing what's called a 3020-a proceeding against a teacher.

According to the Board of Education booklet, "Parent Associations and the Schools" (called the "Blue Book"*), which we'll discuss in more detail later, the schools are supposed to consult with parent associations regarding tenure and evaluation decisions. Despite these guidelines, parents are often not consulted, or merely asked to approve already-made decisions.

To recap, the best time to weed out unqualified teachers is during the probationary period. Once a teacher obtains tenure, an entirely different set of rules applies. We'll look at these rules in the next section.

It's Very Difficult to Remove a Tenured Teacher. Why Is This so?

There are, of course, two sides to any story. Sometimes a capable teacher is a victim of political pressure designed to remove her/him; sometimes the principal simply doesn't like a certain teacher. The provisions in New York state law are intended to protect good teachers who find themselves in a difficult position. Unfortunately, the same rules that protect good teachers also protect bad ones, and the process has been critized as unduly difficult. Let's look at the rules.

New York State law and school board rules provide six reasons why charges may be brought against teachers:

1. Unauthorized absence from work or excessive lateness

2. Neglect of duty

3. Conduct unbecoming a teacher

4. Incompetence or inefficiency

6. Any "substantial cause" that makes a teacher unfit to teach. This covers a wide range of behavior and can include alcoholism, drug use, or failing mental or physical health.

Before a teacher can be removed, she or he must first be charged with wrong doing. After being charged, a teacher is entitled to a due process hearing at which she or he may dispute the charges. The facts must be established at the hearing through presentation of evidence.

Proceedings against teachers are controlled primarily by New York State Education Law Section 3020-a. These proceedings are commonly referred to as 3020-a proceedings. (A 3020-a proceeding may also be brought against other pedagogues.) Charges must be made in writing during the school year. The accused teacher must be given a copy of the charges. Before a hearing is scheduled, either the New York City Board of Education or the community school board must find probable cause, that is, sufficient reason for the charges. Once probable cause has been established, a hearing will be held and a decision reached. A teacher may be suspended while the hearing is pending, but will continue to receive full pay until a decision is reached. Typically, a teacher will be reassigned to work at the community school district headquarters or the New York City Board central headquarters pending the outcome of the hearing. In New York City, from 1985 to 1990, there were 305 charges brought against teachers, school administrators and secretaries (who are also defined as pedagogues) under the 3020-a procedure.

A special fund has been set aside by the Board of Education to pay the salaries of suspended teachers for at least six months. However, because the school is missing a teacher, it may have to replace the absent teacher with a substitute teacher. If the period of suspension exceeds the period of time covered by Board money, the school

will have to pay the salary of the suspended teacher. Thus, it's entirely possible that the school will have to pay two salaries for a period of time — one for the suspended employee and one for the substitute teacher.

There have been many complaints about the 3020-a process. It's both slow and difficult. In New York City, evidence can only be collected for a six-month period in charges filed against elementary and middle school teachers. For teachers in the high school division, evidence can be collected for behavior covering a three-year period. It takes an average of 64 weeks for the 3020-a proceeding to be completed. During this time, unjustly accused teachers can't teach, and properly accused teachers are allowed to receive pay.

To address this problem, the teachers' contract of 1990 provides for an "expedited" or faster process. Instead of the three- person hearing panel required for the 3020-a process in the law, the teacher can choose to go through a process outlined in the contract with only one arbitrator. Thus, a teacher may choose to submit to arbitration* rather than pursue the slower 3020-a process. Parent organizations have expressed some doubts about the merit of this procedure, since good teachers will probably choose arbitration in order to return to the job sooner, while less responsible teachers will have an incentive to choose the slower 3020-a process in the law in order to collect pay for a longer period of time. Despite these reservations, arbitration does have the merit of helping falsely accused teachers return to their jobs faster, and children may benefit from this. Nevertheless, many parent associations believe that the expedited process should become law and not beleft to the teacher's discretion and that a longer period of time for collecting evidence be allowed in filing charges against teachers in elementary and junior high schools.

In theory, a teacher could be terminated as a result of the 3020-a panel's decision. However, there is a definite bias within the system against termination, so very few teachers are actually removed from employment. Other possible outcomes of a 3020-a hearing include dismissal of the charges, a reprimand, a fine, or a suspension for a time without pay. It's also possible that an employee may retire or resign rather than face a 3020-a hearing. If all charges are dismissed, a teacher must be restored to her or his previous position, and the charges must be removed from the teacher's record. Teachers who have committed crimes, such as the sale or possession of drugs, are still entitled to a hearing, but will also be subject to criminal prosecution by the state.

The teachers' contract provides for a Peer Intervention Program. This program is designed to allow the Board of Education as well as the U.F.T. to provide assistance to those tenured teachers who feel they need help improving their teaching skills or to those teachers who have received unsatisfactory (U) ratings or warnings. Teachers are given a three-month period after intervention during which they are not evaluated and are entitled to direct assistance for not more than one year.

What Is the Issue of Teacher Professionalism?

Teachers are professionals. Teachers believe that their work should consist primarily of teaching and that they should have as much say as possible in matters involving the education of children. Teachers do not believe they should be performing tasks which bear little, if any, relationship to teaching. The teacher's contract has attempted to assure the professional status of teachers by requiring teacher participation in choosing books and supplies, and curriculum development, as well as teacher participation in special programs such as SBM/SDM and SBOs. In addition, the teachers' contract contains a variety of provisions which expressly provide lists of tasks teachers are not to be expected to perform. Let's examine some of these provisions.

Teachers in high schools have a maximum teaching load of 25 periods per week. Except for the minimum number of teachers required to supervise school aides and to protect pupil health and safety, teachers in the high schools may not be assigned more than once every six years to cafeteria (unless they work in a small school), bus patrol, or study hall service. Nor may they be assigned to work on a school-wide basis related to the handling, distribution, and inventory of books, supplies and equipment, nor be required to duplicate teaching materials on a school-wide basis. There are emergency situations, of course. In that case, teachers are to be involved in determining an equitable rotation schedule for various assignments that most closely approximates a once-every-six-year limitation.

Teachers in all levels of schools may not be required to score city-wide standardized achievement tests or prepare absentee postcards and truant slips. In addition, teachers in high schools do not have to prepare transcripts for college applicants. All teachers are entitled to a duty-free lunch period.

In the elementary schools, except for teachers assigned to supervise school aides and to assure pupil health and safety, teachers do not have to perform yard duty, or work on a school-wide basis on matters related to the handling, distribution, storing, or inventorying of books, supplies, and equipment, including audio-visual equipment, nor are they required to duplicate teaching materials or collect money for milk, lunches, or school banking.

All teachers are allowed to develop their own lesson plans, unless they've received U ratings or warnings. And principals must give them a reason in writing if they change a student's grades.

Section 6

WORK RULES FOR SCHOOL ADMINISTRATORS

Principals, assistant principals, and other school supervisors and administrators are represented by the Council of Supervisors and Administrators (CSA). This union represents about 4,400 employees. As of November 1992, there were 996 principals; over 800 assistant principals; numerous educational administrators working at both the district office and central school board headquarters; special education supervisors; and many other supervisory workers in a wide variety of titles. As we discuss the contract, we'll be referring mostly to principals, but contract provisions, with some exceptions, apply generally to others as well.

Principals derive most of their authority to run schools from the structure of the New York City Board of Education. As a result, many of the powers principals have are not spelled out in the union contract. We've looked at some of these powers while discussing the teachers' contract. Principals can, for example, determine what classes will be taught and what programs will be followed in their schools.

How Are Principals' Salaries Determined?

As with all other school workers, pay scales for principals, assistant principals and other administrators are determined by the state of the city budget and the ability of CSA to collectively bargain for pay increases, that is, by contract. Article III of the contract sets forth the salary schedules for principals and other supervisors. Each schedule contains steps for each employee title. Principals and others are entitled to longevity increases after reaching the highest step in their schedule and after completing five, ten or fifteen years of service in the schools at a supervisory level. Principals and assistant principals are salaried employees, that is, they are not paid by the hour, and thus cannot receive overtime.

Principals may earn between $64,948 to $73,690 per year. Longevity increases may add from $1,950 to $4,161 per year to these base salaries. Assistant principals may earn from $57,274 to $57,651 per year. Longevity increases may add from $1,980 to $5,261 per year to these base salaries.

What Qualifications Are Required to Become a Principal or Assistant Principal?

State law and the Board of Education have established minimum qualifications. Candidates for principal and assistant principal positions must have received a masters degree and have completed a certain number of courses in administration in order to obtain New York State certification as an administrator. New York State issues two types of certifications: school administrator and supervisor (SAS) and school and district administrator (SDA) certifications. New York City will accept either type of state certification.

In addition, applicants for New York City school positions must apply for a New York City license, and take a licensing exam, which consists of an interview and a review of the applicant's record. Candidates for principal must have three years teaching experience and must complete a one-year internship.

There are two types of assistant principals: assistant principals administration and assistant principals supervision. Assistant principals administration work in high schools only. However, other schools can, in effect, create assistant principal administration positions by giving one assistant principal more administrative responsibility than the others, even though they are not supposed to do so. Candidates for assistant principal supervision positions must have a masters degree, and a SAS or SDA certificate and three years of teaching experience. Assistant principals supervision are required to teach from one to three periods per day. Candidates for assistant principal administration positions do not have to have teaching certification, although they must have completed a masters degree, and hold SAS or SDA certificates.

How Are Principals and Assistant Principals Hired by the Schools?

In addition to having the credentials discussed above, candidates for principal and assistant principal positions in the city schools must go through a formal selection process. This process is governed by Chancellor's Regulation Circular 30 (known as C-30), which superseded the previous 30-R procedures.

Candidates for positions within schools governed by community school districts must pass through three separate interview levels. As the level of the interviews increase, the number of candidates decreases.

The first step is Level I Screening. At this step a minimum of ten candidates must be interviewed (unless there are fewer than ten) by a committee composed of the following: the principal of the school

if the opening is for an assistant principal, or an assistant principal if the opening is for a principal, or, if there is no other supervisor in the school, a principal from another school within the district; two teachers from the school; a minimum of six and a maximum of ten parents of students attending the school; a non-voting district superintendent or designee; a non-voting centrally assigned neutral observer who is to make sure procedures are fairly followed, but who doesn't interview or screen the candidates; and non-voting community school board members.

After completing the screening/interview process, the Level I committee must recommend a minimum of five candidates to Level II. At Level II the district superintendent evaluates the candidates and recommends a minimum of two candidates to Level III. If the Superintendent isn't satisfied with the applicants, she or he may require the Level I committee to consider making additional recommendations. If the superintendent still isn't satisfied, she or he may consult a list of all persons who are eligible for the position, or request that the position be readvertised.

The Level III interview is the responsibility of the community school board members. Board members choose one of the two to five final candidates. If the board isn't satisfied with the candidates, the board may request the superintendent to consider others recommended by the Level I committee. If the board is still not satisfied, the board may consult an eligibility list, if any exists, or request that the position be readvertised.

There is a separate process for candidates for positions in schools under the jurisdiction of the chancellor, that is, high schools and special education. For a principal position, the Level I Screening committee consists of the following: an assistant principal or other supervisor from the school, or a principal from the borough or region; two teachers from the school; a minimum of six and a maximum of ten parents whose children attend the school; a designee of the appropriate high school or special education superintendent (non-voting); and a centrally assigned neutral observer (non-voting).

The committee interviews a minimum of ten applicants and recommends a minimum of five candidates to Level II. The Level II Screening committee consists of the following: the executive

director or designee of the appropriate division (high school or special education), the executive director of the Division of Human Resources or designee; the special education superintendent or designee or the high school superintendent or designee; and a representative of the chancellor. All the members of the Level II committee vote. They recommend a minimum of two candidates to Level III. At Level III the chancellor interviews candidates for principal positions.

For assistant principals the Level I Screening committee consists of the following: the school principal; two teachers from the school; a minimum of six and a maximum of ten parents whose children attend the school; a designee of the appropriate high school or special education superintendent (non-voting); and a centrally assigned neutral observer (non-voting). The committee interviews a minimum of ten candidates and recommends a minimum of five candidates to Level II.

At Level II the committee consists of the following: the appropriate Superintendent or designee for the high school or special education division; a designee of the executive director of Human Resources; and a person designated by the appropriate executive director who possesses technical expertise in the field. At Level II all members vote. They recommend a minimum of two candidates to Level III.

At Level III the executive director of the Division of High School or Special Education selects a candidate subject to approval by the chancellor.

Are Principals Entitled to Tenure?

Yes, supervisory staff achieve tenure after successfully completing a five-year probationary period. This is an increase over the minimum requirement in state law negotiated in the union contract which is four years. Tenure is simply a status granted to principals and teachers, as well as other civil service employees, after they have completed the necessary requirements, such as the length of service requirement above. The status of tenure allows those who have achieved it to hold their jobs on a permanent basis. Once an employee has been granted tenure, he/she can only be removed by following the 3020-a proceedure we described in the previous chapter. A January 1991, report by the New York Senate Committee on Investigations, Taxation and Government Operations found that in the past 12 years, only three principals were discontinued during their probation period and only four were denied tenure following their probation.

Although final responsibility for granting tenure rests with either the community school boards or the City Board depending on the school level involved, provision is made in the "Blue Book" for an advisory role for parent associations on tenure decisions regarding professional employees such as principals. Meetings must be held between parent associations and appropriate school officials "...so that they may be informed what criteria are used for evaluating teachers and administrative staff and given any other proceedural information including timetables for evaluation."

What Is the Work Schedule for Principals?

The schedule for principals differs somewhat from that for teachers. Principals begin their work year on the Monday before Labor Day. The school day for principals and other supervisors is one hour longer than that for teachers, or seven hours and twenty minutes. This time includes a lunch period during which principals and supervisors are not required to perform school-related work. The remaining time is to be used for supervisory and administrative duties.

The schedule for supervisors who work in district offices or at Board of Education headquarters specifies a work year of September 1 through August 31. Supervisors in these locations are entitled to 31 vacation days per year.

Principals and assistant principals are required to report to work one week before other school workers are required to report. Secretaries, who work closely with school supervisory staff, return one week after supervisory staff. The starting date for secretaries, who are represented by the U.F.T., is set by union contract. This illustrates how differing union contracts create difficulties which have an impact on school operations.

Secretarial staff work on registration; duty scheduling including special scheduling for hall patrols and work allocations for the secretarial pool; on last minute scheduling changes; and basically, all the work that needs to be done to help the school year get started. Thus, if supervisory and secretarial staff both reported to work one week early, it's possible that progress could be made toward reducing opening day confusion.

Unqualified Principals

Like teachers, principals accused of wrongdoing are entitled to a 3020-a hearing once they've achieved tenure. A January 1991, report by the New York Senate Committee on Investigations, Taxation, and Government Operations found that only 13 principals and only 10 assistant principals had been singled out for disciplinary hearings in the previous 10 years. As in the teachers contract, the 1992 CSA contract allows for an expedited 3020-a procedure and for a binding arbitration process to resolve disciplinary charges, again at the option of the individual who is charged. CSA, the Board of Education, the Regents and lawmakers are interested in improving the 3020-a process so that unqualified administrators do not remain in the system, but a major problem is disagreement around protecting the rights of due process for employees.

Supervisors who have received an unsatisfactory U rating based on a charge of incompetency may request assistance in improving their performance. Principals are also subject to involuntary transfer. While involuntary transfers are not in the CSA contract, there is a separate agreement on the procedure for involuntary transfer. An involuntarily transferred principal may be required to enter a program called the Principals' Development Center (PDC) by the chancellor. Principals may also choose on their own to enter this program. Through this program, principals are assisted in developing and improving their on the job performance. When a principal's time in the PDC is completed, however, he or she must either be returned to his or her own district or school or may voluntarily accept a new position. Only two principals have voluntarily entered this program so far. One principal was returned to the district and the other accepted a new assignment.

Section 7

WORK RULES FOR CUSTODIANS AND THEIR EMPLOYEES

School custodians are represented by the International Union of Operating Engineers (IUOE) Local 891. There are roughly 900 custodians in the schools. These custodians are quasi-managerial staff. They are licensed to operate various equipment, have managerial skills, and supervise other maintenance workers within the schools. The rank and file cleaning staff are represented by separate unions, the Service Employees International Union (SEIU), Local 74, which represents school cleaners, and the International Union of Operating Engineers (IUOE), Local 94, which represents heating system operators and engineers. The members of these union locals are employed by the school custodians and not the Board of Education.

So when you think about the custodial staff in your child's school you should think in terms of two separate categories of workers with two separate functions. Custodians take care of minor repairs, and maintenance workers handle routine maintenance tasks. The custodians are responsible for the upkeep of roughly 105 million square feet of indoor school space, and about 72 million square feet of outdoor space including paved sidewalks and playgrounds.

Who Supervises School Custodians?

The custodian is supervised by a plant manager who works for the central office of the New York City Board of Education and is assigned to a community school or high school district. Although the principal is the administrator for a school, she or he does not have any direct supervisory authority over the custodian other than a once a year performance evaluation. The head custodian, in turn, supervises the maintenance staff workers at the school. Again, the principal has no supervisory authority over the maintenance workers. Thus, if the custodian is absent from the school for whatever reason, the general maintenance workers remain unsupervised. If the principal asks the maintenance workers to perform a specific task, they may refuse to do so.

Likewise, workers at the custodian's primary school are left unsupervised while the custodian tends the second school. Without supervision, care of the schools may deteriorate. The primary school may suffer because time is often taken away from that school to care for the temporary care school.

In addition, the temporary care custodian collects a custodial allowance for the temporary care school. This allowance is then added on to the custodian's regular salary. As many as 50 schools can lose their permanent custodian and become temporary care schools at any time during the school year.

What Do Custodians Earn?

As pointed out above, custodians' salaries are determined by the amount of square footage at the schools they serve. The maximum custodial salary is currently set at $79,797 for a senior custodian. Currently only three custodians receive this maximum yearly salary. Salaries for entry-level custodians were cut by 30% in the last custodians' contract and are currently set at $35,861. In addition to his or her lunch, a custodian works 8 hours per day, 40 hours per week. If a custodian is required to work more than 8 hours per day or on weekends or holidays, he or she is not entitled to receive overtime pay. They may, however, add to their income by assuming temporary care of a second school without a custodian. This extra pay is called a "custodial allowance."

How about After-School Programs?

Prior to July 1, 1988 , there was a custodial opening fee charged for after-school activities. These opening fees were eliminated in the 1987-88 custodians' contract when custodians were given a one-time raise in salary to compensate them for losing this extra income.

There continue to be, however, costs and charges associated with after-school programs. The minimum fees for opening consists of wages to be paid to custodial staff. Actual charges may vary since each school district is entitled to set its own fee schedule for after-school activities. These charges may exceed the costs of paying custodial staff.

After-school programs require the presence of custodial staff. Separate rules which have nothing to do with the custodians contract may require the additional presence of security and teaching staff. If more than one teacher is going to be present, a teacher-supervisor may be required. Custodial staff perform a number of services before,

during and after each after-school program, such as provision of heat, hot water, and lighting, as well as clean-up following each activity. The labor costs for these services are charged to the organization that uses the school building.

When custodians are informed in advance regarding after-school programs, they can hire additional employees to work that activity at a rate equal to the labor fees charged to the group using the building. However, if sufficient advance notice is not given to the custodian, he or she will have to schedule day workers to work overtime hours to service the after-school activity. This means that if a worker is paid, let's say, $15.00 per hour for the overtime work, the custodian will receive reimbursement of $10.00. The remaining $5.00 will be taken from money allocated for day-to-day school operations.

The main function of custodians with respect to after-hours use of schools is to "sign-off" on a form stating that no other group is scheduled to use the requested space at the same time as another group and to make up the work schedule for their employers. The New York City Board of Education or community school boards handle the actual scheduling for after-hours activities.

Basic Supplies

Each year a certain number of towels and other supplies is allocated to each school by the Board of Education. The custodians contract does not determine the amount of supplies each school will require. Sometimes a larger school may receive no more material than a smaller school. Custodians may obtain additional towels, toilet paper, etc., but only one box at a time, and only by picking up the supplies personally. Supplies of a somewhat permanent nature, such as towel holders or door hinges, are ordered on forms called PO 17's. Some supplies are ordered by school principals, for example, chalk, erasers, and waste baskets.

Why Does It Seem to Take Forever for Repairs to be Completed?

While the custodians contract spells out what kinds of repairs custodians are expected to perform, the contract has nothing to do with whether supplies will be provided to perform the repairs. Instead, the Division of School Facilities is responsible for handling repairs in the city schools. Repairs are requested via forms known as PO 18's. Requests for repairs are listed by priority code. Code 1 signifies an emergency request. Codes 2-4 reflect decreasing degrees of urgency. Code 5 is quite interesting. Code 5 reflects a political emergency. Political emergencies take priority over Code 1 emergencies. Once the order leaves the school, it may be reclassified at another level as a

non-emergency request. A request for a light in a dark hallway is different from a request for a replacement light in a fairly bright cafeteria. The first may be marked an emergency, but be reclassified as a non-emergency request. In other words, once a request has been made by a custodian for repairs, he or she no longer has any say over whether the Division of School Facilities will respond to the request. To some extent, it's the failure to respond to requests for repairs on the part of the Division of School Facilities that has led to a deterioration in the condition of the city schools.

What Is the "Tool Box" Program?

The tool box program is a program that was supposed to provide custodians with extra and basic tools and supplies. Unfortunately the program has not worked. Some money has been allocated to the program and some supplies have been furnished, but the program has been hampered by serious underfunding.

Why are the Walls and Ceilings in My Child's School Not Painted?

Custodians are required to paint 20% of the total wall space each year. Custodians are allowed to paint fixtures such as radiators and doors and walls up to a height of ten feet. Painting above ten feet requires special scaffolding and can only be done by members of a painters' union. They are not required to paint storerooms or equipment rooms or areas that are extensively damaged and require plastering. Budget cuts may reduce the repainting program, but the requirement remains.

In addition to wall painting, custodians are required to paint metal risers, staircase handrails, toilet partitions, and kick plates on doors once per year. They must remove or paint-over graffiti as soon as possible, paint concrete floors which were previously painted, spackle up to two square feet per wall area and paint over this as soon as possible, and do touch-up painting as necessary on all required items.

Over the last 3 years custodians have painted 60% of the school buildings at a cost of roughly $32 million. This represents a substantial saving for the city because use of private painting contractors would have cost the city more than $87 million.

Are Custodians Required to do Anything Else?

The custodians' contract is a requirements contract. This means that the contract spells out every task custodians must perform. Custodians are required to perform a wide variety of tasks. They must clean bathrooms once per day and classrooms every other day. Windows must be washed once per year during the summer.

In addition, custodians are responsible for the following: removing broken and torn window shades and installing replacement shades; repairing or replacing toilet seats, faucet washers, bubblers, flushometers, and internal valves; replacing sink strainers, tail pieces, and faucets; repacking leaking valves; clearing minor stoppage in toilet fixtures; replacing defective air valves in steam fittings; installing trap elements in heating systems; replacing glass up to a size of 60 united inches in 20 inch steel sash, 30 inch aluminum sash, and 60 inch wood sash windows per month; replacing and removing broken standard surface mounted door checks; repairing or replacing lock cylinders, hasps, door catches, and vision panels and tightening hinges; replacing floor tiles up to 75 per month for schools of 100,000 square feet, 150 for schools from 101-200,000 square feet and 200 for schools 201,000 square feet and over; taping or removing carpeting and making minor repairs to exterior macadam or concrete to prevent accidents; repairing broken cafeteria furniture and auditorium seats; replacing electrical switches, outlets and fuses up to 60 amps, as needed.

The above list does not exhaust all of the custodian's responsibilities, but it will give you an idea of what's expected. Many of the required repairs, however, depend on the provision of supplies by the Board of Education to the custodians. Thus, although the contract may require repairs, if the custodians do not receive the necessary supplies, they cannot make the repairs. The backlog of orders for supplies as of February, 1991, stood at 8,000.

Contracting Out Custodial Services

As of 1992, the chancellor expanded a pilot project by contracting with companies for custodial services in a small number of schools rather than hiring new custodians. The hope is that these companies will be more responsive to the needs of principals and that they will provide a higher level of service at a lower cost.

Section 8

WORK RULES FOR AIDES AND PARAPROFESSIONALS

What Is the Difference between an Aide and a Para?

Paraprofessional is a term loosely used to describe employees who work with or for professionals or carry out a limited function that is semi-professional. In New York City public schools, however, only one group of workers is formally called a "paraprofessional." Paraprofessionals who work in the classrooms and directly with teachers are represented by the teachers' union and are called "paras." Paraprofessionals represented by the American Federation of State, County and Municipal Employees, District 37, Local 372 do not work in classrooms nor directly with teachers. These employees are usually called school aides.

In state law, the proper titles for those paraprofessionals represented by the U.F.T. include: teacher aide, educational assistant, educational associate, auxiliary trainer, and bilingual professional assistant. The preceeding titles are in rank order by pay and experience and educational level. Like the teachers, they also have a salary step program within each title that increases their pay through experience and educational attainment. The basic requirement is a high school diploma, followed by one year of service and six college credits. As paraprofessionals add to their college credits they can move one step higher, say from teacher aide to educational assistant.

Local 372 of DC 37 represents the following school workers: school lunch employees, family workers and parent program assistants, school neighborhood workers and community workers, substance abuse prevention and intervention specialists (SAPIS workers), and school aides. Health service aides and school crossing guards are part of DC 37 but are employed by the New York City Health Department and New York City Police Department, respectively. Most of the roughly 20,000 employees represented by Local 372 of DC 37 are part-time workers, who work a minimum of 4 hours per work day, although more than 2,000 employees work full time, for example annual school lunch workers, community coordinators, and SAPIS workers.

Basically, paras and aides are covered by two types of seniority. For purposes of layoffs and excessing there is seniority within the school district or within the borough. For purposes of promotions or changes in assignments, there is seniority within the school at which the employee works first.

School Aides and Children

School aides aren't supposed to be left alone to supervise children. A teacher should be present and in charge at all times. For example, a teacher must supervise playground periods, class trips, and the lunch room.

If your child has a problem with a school aide or other DC 37 worker, you should report the matter to the school principal. The principal has the right to suspend a worker without pay while he or she gathers evidence.

How Are Employee Numbers Determined for Each School?

The number of school aides in a school or district and the hours they work are determined by either community school district or high school district budget allocations. The number of aides can vary from district to district and from school to school. If you feel that your school does not have enough school aides, you should take this matter up with your principal and community school board. The teachers' contact, the budgets of the districts, state regulations, and the chancellor's policies tend to determine the number of paras within each schools.

Section 9

OTHER ISSUES

There are a variety of issues that directly concern parents and their children in school that involve procedures and rules beyond union contract issues. We can't deal with them all here, but we'll look at a few common concerns and problems.

What Should My Child Be Taught?

Set up an appointment to talk to your child's teacher to find out what subjects should be covered in your child's class by the end of the school year. If you are still unclear or are concerned, you should talk to the principal. If you remain unsatisfied, the community school or high school district should be able to tell you what are the district's standards and guidelines for what should be covered in each grade or subject area.

Can I, as a Parent, Influence What Will be Taught in My Child's School?

Influencing the curriculum,* that is, what will be taught, is very difficult but not impossible. The major way to express your opinion is by joining a parents' organization and lobbying through the group. School administration is required to consult with parent and parent-teacher associations regarding the school curriculum. You can also meet with your school's principal to discuss the curriculum or the creation of a curriculum committee open to parents, teachers, and other school staff. You may want to join the SBM/SDM committee or another type of school-based management team if one exists in your school.

What If I'm Called to My Child's School by the Principal?

If you're asked to come to your child's school to talk to the principal or teacher, it's probably because your child is having some difficulty. You should not ignore this request, but should go to your child's school to discuss the matter as soon as possible. Ideally, your school will feel that you have a lot to contribute to understanding and making decisions about your child. In any event, decisions to discipline or place a child in special education programs must not be made without consultation with parents.

May I Visit My Child's School and Observe His/Her Class?

Yes, but if you do visit, you should follow proper procedures. You should sign the visitor's book first and then proceed to the central office to check in. This allows the school to make certain that only authorized persons are on school premises.

The school system has an "Open School Week" during which parents are encouraged to visit the schools. The process a parent must follow if she or he wishes to sit in on a child's class during the remainder of the school year, however, isn't entirely clear. Some recommend contacting the teacher first; others recommend contacting the principal first. Policy may vary from school to school. One possible approach for parents is to contact the teacher first as a courtesy, in order to determine the best time to visit, and then to contact the principal to complete arrangements. If your request is denied, the next step would be to approach the appropriate district or high school superintendent or the community school board. The issue of denial of access will then be raised in a more public forum and the principal may be made to give her or his reasons for denying access in order to determine whether those reasons are legitimate.

Why Can't My Child Go Home for Lunch?

The expression "captive" lunches* simply means that children are not allowed to go outside the school premises during lunch time but must either bring lunch to school or eat the school lunch. This is done for safety reasons and to prevent children from getting into trouble. "Captive" lunches prevent children from going out into the street and not returning to school for the afternoon session. Not all schools have captive lunches, so contact your school to learn about its policy.

What Can I Do to Improve the Quality of My Child's School Lunch?

The most common problem experienced by lunch room aides is that they are often the target of parents' complaints about poor quality of lunch. Each school is supposed to have a Nutrition Committee. In addition, there should be a district Nutrition Committee. If you have complaints or questions about school lunches, you should direct your questions to the principal or the committee, not to the lunch-room staff.

Disciplinary Issues

Penalities for student misbehavior is primarily governed by chancellor's regulations A440 and A441 and state law. Student suspensions are for behavior that poses a threat to the student, other students or staff and disrupts the orderly operation of the school and should be used after all other alternatives, such as guidance, have been used. Principals have the authority to suspend a student for up to 5 days. For more serious misbehavior, superintendents have the

authority to suspend a student from 5 to 30 days and/or transfer the student to another school. Before a student is suspended and before the student returns to the school, the principal or the superintendent should schedule a conference or hearing which the parents should attend. You should contact an advocacy group to learn about your rights and your child's rights in cases of suspension.

Article 9 and Appendix B of the teachers' contract describes the procedures which must be followed when a student disrupts the classroom. However, these sections, which have never been fully implemented, mainly are used to give teachers instructions on how to make a complaint about a student's misbehavior.

What Should I Do If I Want to Make a Complaint about a Principal?

If you believe that you have a complaint against a school principal, you should bring the complaint to your community school district or high school superintendent first. You should document your complaint and bring in any evidence you may have to back yourself up when you visit the superintendent. Your should always keep copies of your materials and after the meeting summarize the meeting for yourself. Put down the date and time of the meeting and what the superintendent said and what you said. It's good to follow up the meeting with a letter thanking him or her for the meeting and stating what action the superintendent said he or she would take. Mark "confidential" on the letter and envelope and keep a copy of it.

If you don't obtain results from the superintendent, then write to the chancellor of the New York City Board of Education directly. Present the same information to the chancellor that you brought to the superintendent. In addition be prepared to tell the chancellor why you were not satisfied with the superintendent's response.

Suppose my Child Complains about a Teacher — How Do I Handle That?

If your child approaches you with a complaint about a teacher, wait to hear both sides of the story before you respond. Depending on the seriousness of the complaint you may want to talk to the teacher first. If the complaint is serious or you are unsatisfied, you should contact the school principal and request that the incident be investigated, either by the school principal or someone assigned by the principal to look into the matter. You should also contact the parent association in the school, if the incident is a serious one.

The principal should advise you of your legal rights. A complaint should be forwarded by the principal to the appropriate

superintendent and to the Office of Appeals and Review. The Office of Appeals and Review will schedule a hearing with a union representative regarding the complaint. You should also be informed by the principal that if just cause for your complaint is found, a letter describing the incident and findings will be placed in the employee's personnel file or more serious disciplinary action will be taken.

The hearings are confidential. Thus, parents are not allowed to attend. The best course of action is to keep in touch with the principal in order to determine the status of the hearing as well as its outcome. In addition parents should seek the help of a parent association in working through the complaint process so that they will not have to "go it alone."

What If My Child Was Involved in an Accident at School or Abused by a Teacher or Other School Employee?

In every case involving accidents or serious charges such as abuse, an incident report must be filed by the school principal or his or her representative within 24 hours of the occurrence whether or not the principal believes the charges or not. If the report is not filed within 24 hours, you have the right to make a complaint against the school principal. This report must be in writing and you are entitled to receive a copy of the report. Filing accident and incident reports by the principal is mandatory. That means that reports must be filed whether the principal believes the charges or not. If you have difficulty obtaining the report, you should contact a parent organization or child advocacy group for help. Some of these groups are listed at the end of this booklet.

Furthermore, according to Chancellor's Regulation A-412, the principal must make an immediate report by telephone when a serious incident, such as criminal activity, occurs. The written incident report is a follow-up to this telephone call. For centrally operated schools, such as high schools, calls are to be made by the principal to the appropriate superintendent and to the Office of School Safety. Reports are to be made for community school districts to the community superintendent, who must, in turn, report to the Office of School Safety.

The principal must document the incident by obtaining handwritten statements from at least two witnesses to the incident. In addition, the principal must obtain signed statements from the parties who were directly involved in the incident. If a child has been injured, either as a result of the incident or not, the principal must also file a separate "Report of Accident."

Where Do I Go If Proper Procedures for Handling Complaints Aren't Being Followed or If I Suspect Criminal or Unethical Activities in the Schools?

A new agency called the Special Commissioner of Investigation for the New York City School District has been formed for the purpose of monitoring both criminal and unethical activity in the city's schools. This agency is independent of the Board of Education. The agency has a hotline number which you can call 24 hours a day to register your complaints. In an emergency, a staff member can be reached at any time of the day or night. The number is (212) 510-1550.

SCI receives complaints involving allegations of sexual abuse, bribery and corruption. School officials are required to report suspected wrongdoing. Parents and other community members are encouraged to report any criminal or unethical activities they suspect in the schools.

Once an investigation has begun, SCI involves parents in the investigation on an ongoing basis. Parents are advised to contact SCI as quickly as possible to avoid loss of evidence.

SCI's staff consists of former police detectives, attorneys with experience prosecuting and investigating criminal and civil matters, and experienced investigators. The mayor has given SCI the authority to examine witnesses under oath, subpoena records, and conduct arrests.

After an investigation has been completed, SCI will issue a report and make recommendations as to the appropriate disciplinary action to be taken. SCI is not responsible for changing Board of Education policy. Nevertheless, it can place significant pressure on the Board of Education to act on its recommendations by releasing reports and recommendations to the press.

SCI forwards copies of the reports and recommendations to the Board of Education and to the chancellor. Both the Board and the chancellor must explain their reasons in writing if they don't accept SCI's recommendations. Copies are also forwarded to the city's Department of Investigation (DOI) and to the state, although this isn't required. In addition, the department follows through on its cases to ensure that its recommendations are being followed.

Parents are a particularly important source of information for SCI. So, don't feel reluctant to call the hotline #: 212-510-1500. The result may be a referral to another agency, but may well generate an SCI investigation. You should be aware before you call that the SCI does not handle "routine" corporal punishment cases. These are usually handled by the Board's Office of Appeals and Review. Corporal punishment is defined in the Board of Education bylaws. Prohibited punishment by a teacher or other school employee also includes verbal abuse of a student. The SCI will, however, investigate cases of serious physical abuse, that is, abuse resulting in physical injury, usually in conjunction with the District Attorney's Office.

If you have any doubt as to the correct agency to handle your complaint, you should call SCI's hotline. There were 20 arrests of school personnel between January, 1991 and October, 1991.

SCI has recommended a variety of disciplinary steps, including removal and termination of employees and/or criminal prosecution. Arrests of school personnel usually involve incidents of alleged sexual abuse, drug use, and corruption, such as theft of school funds. It is possible, if the offense is serious enough, for a teacher to lose both state and city teaching certificates. Certificate revocation is especially recommended in sex abuse cases.

Section 10

PARENT ASSOCIATIONS AND THE SCHOOLS

Parent associations and parent-teacher associations play a vital role in the schools by enabling parents to join together both to improve the schools and to increase parental input into decisions affecting the schools and, thus, their children. Rules and regulations affect their operations. We mentioned the Blue Book earlier in this booklet. Now let's take a closer look at some of its provisions. It should be notedthat the book is being re-written in 1993, so some of the provisions will be changed.

Organizational Rights of Parent Associations

The New York State Decentralization Law requires that every public school in the city have either a parent association or a parent-teacher association. If a school does not have an association, the principal of the school is responsible for convening parents in order to organize an association. Parents of children in the school have a right to determine the constitution and the by-laws of the association, but these must contain a provision for the annual election of association officers. Parents may also decide whether the association will be a parent association or a parent-teacher association.

According to the Blue Book, Administrative personnel, such as principals, community superintendents, high school superintendents or the executive director of special education, have no right to interfere with the internal affairs of the associations.

Allowable Activities

Associations are entitled to distribute bulletins, flyers and notices to homes through the school's children, provided that the items distributed contain material suitable for distribution to children.

Associations may conduct as many fundraising activities as they wish. However, there's a limit of two activities a year involving school children during school hours. Associations are prohibited from selling tickets for children's attendance at theaters or the movies unless the project is directly connected with the curriculum, from conducting house-to-house solicitation of money by children, and from selling

raffle tickets to children or conducting bingo games or other forms of gambling.

In addition, associations are entitled to free use of school buildings for at least two meetings a month for a total of six hours per month.

Communication with Administration

The New York State Decentralization Law requires that the city Board of Education, the chancellor, community school boards and their superintendents, and principals regularly communicate with the associations. State Education Law 2590-b requires that the associations be "provided with full factual infomation pertaining to matters of student achievement, including but not limited to annual reading scores, comparison of the achievement of pupils in comparable grades and schools, as well as the record of achievement of the same children (classes) as they progress through the school; provided, however, that such records and scores shall not be disclosed in a manner which will identify individual pupils."

The chancellor must provide information regarding minimum educational standards and curriculum requirements for all schools, as well as the results of the chancellor's evaluations of the educational effectiveness of the schools throughout the city.

Consultation

We've examined the issue of consultation between school administration and the associations in separate sections on tenure and the appointment process for principals. The school administrators are, however, required to consult with the associations on a regular basis, as well as to consult with the associations on specific issues spelled out in the blue book.

The city Board of Education, the chancellor, executive directors, and assistant superintendents are supposed to consult on a regular basis with parent federations, that is, with representatives of the various associations acting together. Principals of high schools and special schools are required to consult regularly with parent or parent-teacher associations. Regular consultation is also required between the associations and the community school boards and their community superintendents and principals in the elementary, intermediate and junior high schools.

As discussed previously the associations must be informed regarding the criteria used for evaluating teachers and administrative staff as well as the procedures to be used to make the evaluations and the timetables for evaluation to be completed. The Chancellor has established guidelines for the selection of community superintendets in his Circular #37.

In addition, the community school boards are responsible for establishing procedures for consulting with the associations in the selection of community superintendents, deputy community superintendents and acting superintendents. The chancellor is responsible for establishing procedures for consulting with the associations regarding the selection of high school superintendents.

Parent associations and parent-teacher associations must also be consulted by the appropriate educational personnel on the issues of curriculum, discipline, safety, food services, special programs and innovations, repairs and construction, site selection, budgets, selection of architects, regulations and standards governing qualifications for bidders, union contracts, purchasing policies, recreational programs, and use of federal, state and other special funds.

Associations in the elementary, intermediate and junior high schools are also entitled to receive copies of the calendars and minutes of all regular and special public meetings of the community school boards as well as copies of the bylaws of the boards. The associations in the high schools and special education schools are entitled to receive similar material from the city Board of Education.

Finally, the rules provide that the policies outlined in the Blue Book are minimal policies. This means that they are the basic policies which everyone must follow. The community school boards may expand these rights and procedures after consultation with the associations, but may not take away any of the rights and procedures defined in the Blue Book.

Generally, parents working on their own are less likely to obtain the information or the results they can obtain when working together through a parent association or a parent-teacher association. It's important for parents to join together to make their voices heard.

Section 11

BILINGUAL/ENGLISH AS A SECOND LANGUAGE (ESL) EDUCATION

Introduction

Among the city's nearly one million pupils in public schools, about 12 per cent are LEP students, i.e. children with limited proficiency in the use of English. It is estimated that 120 different languages are spoken among the city's pupils. Bilingual/ ESL education is designed for students whose English language deficiency prevents them from effectively participating in the learning process. An important objective, although not specifically stated as a matter of law, is the reduction in the disproportionate academic failure and dropout rates of students whose native language is not English.

Legal Requirements

The Chancellor's Special Circular No.42, dated June 28,1989 states that as of September 15, 1989, BOE will "mandate the implementation of bilingual and ESL services for all general and special education LEP students in kindergarten to grade 12 who score at or below the 40th percentile on the English LAB" (LAB stands for Language Assessment Battery and is a BOE developed test designed to measure language proficiency.) The legal bases for the city's policy are contained in a 1974 consent decree involving BOE and ASPIRA of New York; a 1977 agreement between BOE and the U.S. Office of Civil Rights (the so-called Lau plan); and the New York State Commissioner of Education's regulations Part 154.

Types of services

LEP students are entitled to a full bilingual program consisting of:

- Instruction in English as a second language (ESL)
- Instruction in native language arts
- Social studies, science and math instruction in the native language.

In cases when a student's parents do not wish their children to obtain a bilingual education, ESL instruction nevertheless remains mandatory for such children. However, if only a few children speak a given language or if a bilingual teacher in that language, even without proper certification, is not available, then either a less than complete bilingual program will be provided or ESL-only will be taught to that child.

Program Implementation

Implementation requires the following basic steps:

1) Home Language Identification Survey (HLIS). A Chancellor's memorandum dated November 25, 1986 states that "Parents of newly registered children in New York City Public Schools grades K-12 are required to complete a Home Language Identification Survey" to be completed within five school days of registration.

2) English Language Assessment Battery (LAB) Test. Spanish speaking or Spanish surnamed students as well as Lau students (i.e. students with native languages other than Spanish) in grades K-2 take the English LAB version. Lau students in higher grades take the LAB test depending on their scores on the Degrees of Reading Power (DRP) tests. Spanish speaking or Spanish surnamed students who have scored at or below the 40th percentile on the English LAB version are also given the Spanish LAB version.

3) Parental notification and option for withdrawal from bilingual program (but not from ESL). Parents must be informed that they have a right to refuse bilingual instruction for their children. The necessary steps are contained in the Education Commissioner's Regulation Section 154.5(f) (1) (2) (i) (ii).

4) Placement in Bilingual/ESL Programs. Test Memorandum No 2, dated August 29,1990 of the Office of Research, Evaluation and Assessment provides that "Class placement in the appropriate mandated bilingual or ESL program must be made within two weeks of enrollment".

(5) Annual retesting to determine when a pupil is ready to be mainstreamed into regular English-only classrooms.

Problems

Success of Bilingual/ESL programs, as a practical matter, primarily depends on an adequate supply of properly licensed/ certified teachers. Although state aid for these programs is available, there remains a critical shortage of specially trained teachers. This shortage must be corrected. Otherwise, a significant percentage of students in public schools will be discriminated against by being deprived of their right to an education.

Section 12

SPECIAL EDUCATION

Introduction

While this manual has outlined work rules and procedures for employers and some of the rights of parents and parents associations, there are additional laws and procedures involved in special education programs. We can't do justice to a topic such as special education in this booklet because the subject is complex. Parents are advised to seek assistance from parent associations and/or child advocacy organizations if special education is suggested as an option for their children. Let's briefly look at some of the legal mandates and issues in special education.

Federal Law

Federal Law P.L. 94-142, also known as the "Education for all Handicapped Children Act," guarantees either a regular or special education placement for children with disabilities. The Act further requires the provision of related services* which will aid handicapped children in obtaining an education. Related services may include, but are not limited to such services as medical and counselling services, transportation and physical therapy.

Under federal law, the Board of Education is required to provide each child who has a handicapping condition with an Individualized Education Plan (IEP)* once that child has been placed in special education. The IEP is a blueprint which takes into account the particular needs of each child with a handicapping condition.

The Board is further required to place each child in the least restrictive environment possible. This means that children with handicapping conditions should be educated with non-handicapped children as much as possible. This process of inclusion is called "mainstreaming."* Mainstreaming is meant to reduce the isolation of children with handicapping conditions.

New York State Law

New York State law requires the formation of Committees on Special Education (CSE's). The purpose of CSE's is to evaluate and place children in special education. Each of New York City's 32 community school districts is required to have a Committee on

Special Education to evaluate and place elementary, junior and senior high school students, except for Manhattan, which has a separate committee for senior high school students.

Court Decisions

Two major court decisions have influenced both special and regular educational procedures. As a result of *Jose P. v. Amback,* which was decided in 1979, New York City schools were required to create School-Based Support Teams (SBST's) to ensure that evaluation and placement procedures for special education stay within state mandated timelines. The schools were also required to establish procedures for students with Limited English Proficiency.

The second case, *ASPIRA v. New York City Board of Education*, also decided in 1979, mandated that schools administer a test called the Language Assessment Battery (LAB) to all students with Hispanic surnames, as well as to other students who speak a language other than English. In addition, proper instructional materials and equipment must be made available to LEP students.

SBST

The city's School-Based Support Teams are supervised by the 32 district Committees on Special Education. The SBSTs are responsible for evaluating students referred to them. Referrals may be made by parents, regular or special education teachers, principals, other school staff, or, if the child is age 18 or older, by the child her or himself. Evaluation cannot proceed without the approval of a child's parent or guardian unless an Impartial Hearing Officer orders it.

The SBST can help you explore preventive services such as counselling. Provision of preventive services to your child may allow her or him to remain in regular classes rather than being referred to special education classes. You should look very closely at this preventive service option before you place your child in special education. Before your child can be provided with preventive services the school must have your written consent.

There are also two assessment stages in the special education referral process, one informal, the other formal. An informal evaluation by the SBST may result in recommendation by the SBST for a formal evaluation of your child. If your child's evaluation reaches the formal stage, you acquire legal rights under federal education law.

Your child is not considered to have a handicapping condition until the SBST or the CSE reviews the formal assessment and the parent or guardian signs the recommendation letter.

Parental Rights

Both federal and state law provide for due process procedures which parents of children with handicapping conditions may use to insure the child's access to public education. These due process procedures are available to parents as soon as a recommendation is made to refer their children to special education. Parents are entitled to be informed of their rights to participate in making educational decisions for their children. Parents are entitled to receive formal notice of any proposed action which may affect their children's education. The notice should contain the reasons why the recommendation is being made. Parents are entitled to actively participate in the entire decision-making process. Furthermore parents must give their consent to evaluation and placement before the school system may proceed. Parents have the right to challenge any decision they disagree with through an impartial hearing, and, if necessary, through appeals to the state Commissioner of Education and the courts. Parents are also entitled to the assistance of an advocate at every stage of the referral process. Given the complexity of special education regulations, parents should contact an advocacy organization as soon as possible so that they can be helped to understand their rights and the recommendations that are being made for their child.

Section 13

CONCLUSION

We've covered a lot of territory in this guide, yet we've barely scratched the surface. If we took a look at every provision in the different contracts or discussed every problem within the schools, we could probably fill several thick books. What we have covered should help you understand generally what's going on. We've looked at important contract clauses and examined common terms.

The important thing is for you to take the knowledge you've gained through this guide and to increase your knowledge by calling the numbers listed in this booklet, by obtaining copies of contracts and other materials, and by joining a parent association.

Parents are in the same position that teachers were in before they became organized. Parents are "consulted" on some matters and completely ignored on others. The operation of the city's schools should be the joint obligation of school staff and parents. The ultimate goal is the creation of the best possible educational system for children.

This is a listing of organizations that can be of assistance to parents and the interested public in explaining the rights of students and/or parents in issues involving public school practices:

NYC Board of Education

— **Blue Book** (see Section 10) Call the **Office of Community School District Affairs — Tel. #: 718-935-2799** or the **Office of Parent Involvement Tel. #: 718-935-** 5202 and ask for a copy of **"Parent Associations and the Schools"** These offices might have information on training programs.

— **Union contracts**

Call the **Division of Labor Relations** to make an arrangement to come in and read a union contract. In some cases, this office may be able to send you the contract. **Tel.#: 718-935-** 2049.

— **Special Commissioner of Investigations for NYC School Dis trict Tel #: 212-510-1550**

This is a 24 hour hotline to register complaints involving allegations of sexual abuse, bribery and corruptions.

Advocates for Children — Tel #: 212-947-9779
Areas of special assistance: special education; disciplinary issues; services to homeless students.

American Jewish Committee — Tel #: 212-751-4000
Multicultural education.

Asian American Communications — Tel #: 212-219-0777
Services to Asian students; bilingual/ESL services; multicultural education.

ASPIRA of NY, Inc. — Tel #: 212-564-6880
Services to Latino students; bilingual/ESL services; multicultural education.

Association for the Help of Retarded Children —
Tel #: 212-780-2500 Special education services.

Black Agency Executives — Tel #: 212-
Referrals to agencies serving the African-American community.

Center for Law and Social Justice Parent Advocacy Center/Parent Training Institute — Tel. #: 718-783-1828
Education advocacy and leadership training.

Citizen's Committee for Children, Inc — Tel #: 212-673-1800
Policy information on child health and mental health services; education; day care; juvenile justice; and child welfare and housing.

Community Service Society — Tel #: 212-254-8900
Chapter 1 services; school board elections; rights of parents; demographic statistics on New York City school system.

Junior League of Brooklyn — Tel #: 718-624-3288
Sponsors tutoring programs in Brooklyn.

Junior League of New York City — Tel #: 212-288-6220
Sponsors a variety of programs for children and teens, including tutorial and career opportunity programs.

League of Women Voters — Tel #: 212-677-5050
Sponsors voter registration programs in high schools; information on how to contact elected officials.

National Association for the Advancement of Colored People Metropolitan Council
Assistance to parents and parent organizations.

New York City School Boards Association — Tel #: 718-624-1067
Assistance to members of community school boards.

New York Coalition of 100 Black Women — Tel #: 212- 517-5700
Referrals to agencies serving African American community.

New York Urban Coalition — Tel #: 212-219-4500
Sponsors programs to develop student leadership and professional leadership in schools.

New York Urban League, Bklyn Branch — Tel #: 718-756-3032
Sponsors scholarship programs. Parent Resource Center offers workshops on parent involvement and parent training.

Parents Coalition for Education in NYC
Assistance to parents and parents organizations.

Presbytery of New York City — Tel #: 212-691-9650
Advocates around issues of budget, management and the education of children to and on behalf of the 110 churches of the Presbytery of NYC.

PROGRESS — Tel #: 212-480-0202
Referrals to agencies serving Latino communities.

Public Education Association — Tel #: 212-868-1640
Curriculum and school program; update on union contract issues; community school board elections; monitors central and community school boards.

Resources for Children with Special Needs — Tel #: 212-677-4650
Resource referrals and advocacy for special needs children, parents, and professionals.

Rheedlen Center for Children and Families — Tel #: 212-866-0700
After-school programs, activities, and services; and truancy issues.

Save Our Schools (S.O.S)
Organizes parents around education budget.

Collective Bargaining	The process of negotiation between management and organized labor, which results in a collective bargaining agreement, that is, a union contract.
Collective Bargaining Agreement	The contract agreement between management and organized labor that spells out terms and conditions of employment, such as wages and hours.
Common Branch Subjects	Any or all the subjects usually taught or included in the daily program of elementary schools, such as arithmetic.
Curriculum	All of the courses offered in a school or all of the courses in any one subject.
Discharge	Termination of employment, usually for disciplinary reasons.
Double Seniority	An incentive which allows teachers to accumulate special seniority credit for the purpose of transfer for time spent in Chapter 1 schools. Only the period of employment before 1987 counts for double seniority.
Excessing	A term that refers to a situation in which there are too many employees for the available positions because of budget cuts. An excessed employee may bump or displace another employee with less seniority.
Extracurricular	Activities that are outside the curriculum or regular course of study but under the supervision of the school, for example, dramatics or athletic activities.
Grievance	A complaint filed by an employee about unjust, discriminatory, or oppressive working conditions or a violation of the union contract.
Homeroom Classes	Classes in which children assemble at least once a day for administrative purposes, for example, taking attendance.
Individualized Education Plan (IEP)	An individualized education plan which must be provided to each child with a handicapping condition, mandated by federal law. Each IEP takes into account the particular needs of the child.
Layoffs	The end of employment, sometimes only on temporary basis, because there is a lack of available work or for budgetary reasons.

Salary Schedule — A listing of employee salaries, usually by steps, which is based on job duties, qualifications, and length of employment (also referred to as longevity).

School-Based Management/Shared Decison Making (SBM/SDM) — A process found in some schools by which members of the school community, including teachers, parents, and administrators, work together to identify important issues, define goals, develop policies, and implement programs in the schools to improve the educational program.

School-Based Options (SBOs) — An option within the teachers' contract which allows schools to change provisions of the contract in four areas: class size, rotation of teacher assignments or classes, teacher schedules, and/or rotation of paid coverage for the entire school year.

Seniority — A status achieved by length of service on the job. Seniority gives priority to the holder over other employees with shorter service, in retaining employment, transfering to other schools, and other conditions of employment.

Special Education — Programs for students with mental, physical, emotional, or learning disabilities.

Steps — The various components of a salary schedule which show how pay will increase according to certain factors such as length of service.

Teaching Periods — Those periods of time when a teacher is actively involved with a student in the act of teaching.

Tenure — A status granted to a teacher, a principal, or other civil service worker who has completed certain requirements, such as length of service requirements, which gives the employee permanent job security. An employee with tenure may only be removed for the most serious causes.

3020-a Proceedings — A due process procedure used for handling complaints about teachers, principals, and other school administrators.

Union — An organization of workers, formed for the purpose of negotiating with employers on matters such as wages, seniority, working conditions, and the like.

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